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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 ROBERT M. BENSON,

No. 2:01-cv-1623-MCE-CMK-P

12 Petitioner,

13 vs.

ORDER

14 CHERYL PLILER, et al.,

15 Respondents.
16 _____/

17 Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas
18 corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner's request for a
19 certificate of appealability (Doc. 49), filed on December 4, 2006.


20 Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this
21 court's November 20, 2006, denial of his application for a writ of habeas corpus. Before
22 petitioner can appeal this decision, a certificate of appealability must issue. See 28 U.S.C.
23 § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability may issue under 28 U.S.C.
24 § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional
25 right." 28 U.S.C. § 2253(c)(2).

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1 The court must either issue a certificate of appealability indicating which issues satisfy the
2 required showing or must state the reasons why such a certificate should not issue. See Fed. R.
3 App. P. 22(b). For the reasons set forth in the magistrate judge's August 30, 2006, findings and
4 recommendations, petitioner has not made a substantial showing of the denial of a constitutional
5 right.

6 Accordingly, IT IS HEREBY ORDERED that petitioner's request for a certificate of
7 appealability is denied.

8 Dated: January 26, 2007

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10 MORRISON C. ENGLAND, JR.
11 UNITED STATES DISTRICT JUDGE
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